

# Pending MOLST Regulations

Attached Document:

---

## Title 10

### DEPARTMENT OF HEALTH AND MENTAL HYGIENE

#### Subtitle 01 PROCEDURES

##### **10.01.21 Medical Orders for Life-Sustaining Treatment (MOLST) Form - Procedures and Requirements**

Authority: Health-General Article, §§2-104, 5-608, 5-608.1, and 5-609, Annotated Code of Maryland

#### **ALL NEW**

##### **.01 Scope.**

This chapter sets out the Medical Orders for Life-Sustaining Treatment (MOLST) form, instructions, and certain related procedures and requirements developed by the Department of Health and Mental Hygiene, in conjunction with the Board of Physicians and the Maryland Institute for Emergency Medical Services Systems.

##### **.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Advance directive" has the meaning stated in Health-General Article, §5-601(b), Annotated Code of Maryland.

(2) "Assisted living program" has the meaning stated in COMAR 10.07.14.02.

(3) "Authorized decision maker" means the health care agent, guardian of the person, or surrogate decision maker who is making health care decisions on behalf of a patient in accordance with the Health Care Decisions Act, Health-General Article, §§5-601—5-618, Annotated Code of Maryland.

(4) "EMS DNR order" means an "emergency medical services 'do not resuscitate' order" as defined in Health-General Article, §5-601(i), Annotated Code of Maryland.

(5) "Guardian of the person" means a person appointed by a court to be a guardian of the person of a disabled individual in accordance with the Estates and Trusts Article, §13-705, Annotated Code of Maryland.

(6) "Health care agent" means an "agent" as defined in Health-General Article, §5-601(c), Annotated Code of Maryland.

(7) "Health care" has the meaning stated in Health-General Article, §4-301(f), Annotated Code of Maryland.

(8) "Health Care Decisions Act" means Health-General Article, §§5-601—5-618, Annotated Code of Maryland.

(9) "Health care facility" has the meaning stated in Health-General Article, §5-608.1(a), Annotated Code of Maryland.

(10) "Health care provider" has the meaning stated in Health-General Article, §5-601(l), Annotated Code of Maryland.

(11) "Home health agency" has the meaning stated in COMAR 10.07.10.02.

(12) "Hospice" means a hospice care program as defined in COMAR 10.07.21.02.

(13) "Hospital" has the meaning stated in Health-General Article, §19-301(f), Annotated Code of Maryland.

(14) "Kidney dialysis center" has the meaning stated in COMAR 10.05.04.01

(15) "Medical record" has the meaning stated in Health-General Article, §4-301(h), Annotated Code of Maryland.

(16) "Medical Orders for Life-Sustaining Treatment (MOLST) form" means the form required to be developed pursuant to Health-General Article, §5-608.1, Annotated Code of Maryland.

(17) "Minor" means an unmarried individual under 18 years of age who is not married, not the parent of a child, and not otherwise authorized by law to consent to medical treatment.

(18) "Nurse practitioner" has the meaning stated in Health-General Article, § 5-601(p), Annotated Code of Maryland.

(19) "Nursing home" means a comprehensive care facility or extended care facility as defined in COMAR 10.07.02.01.

(20) "Patient" has the meaning stated in Health-General Article, §4-301(j), Annotated Code of Maryland.

(21) "Physician" has the meaning stated in Health-General Article, §5-601(r), Annotated Code of Maryland.

(22) "Practitioner" means a physician or a nurse practitioner.

(23) "Substantial change in health status" means a change in a patient's health or functional status that:

(a) Demonstrates an improvement or decline in the patient's status that requires the need for interdisciplinary review or revision of the patient's health care; and

(b) Is not a temporary change that is self-limited.

(24) "Surrogate" means an individual who makes health care decisions for a patient pursuant to Health-General Article, §5-605, Annotated Code of Maryland.

### **.03 Nature and Contents of the MOLST Form and Instructions.**

The content of the form and the form's instructions are as follows:

**[Click here to view pdf form and instructions](#)**

### **.04 Use of the MOLST Form.**

A. Definitions. In this regulation, the following terms have the meanings indicated.

(1) "Completing a MOLST form" means:

(a) Certifying, when applicable, the bases for the orders contained therein;

(b) Completing section one for all patients and only those sections two through nine of the form that are related to the patient's current medical condition and wishes for care; and

(c) Signing and dating the MOLST form.

(2) "Updating a MOLST form" means to revise an existing MOLST form by voiding the existing form and completing a new MOLST form in accordance with the form's instructions.

B. Beginning on October 1, 2011, the following health care facilities are required to accept, update if appropriate, and complete the MOLST form for each patient during the admission process in accordance with the form's instructions:

- (1) An assisted living program;
- (2) A home health agency;
- (3) A hospice;
- (4) A kidney dialysis center; and
- (5) A nursing home.

C. An assisted living program or a nursing home shall also complete the MOLST form for a patient:

- (1) Admitted before October 1, 2011; and
- (2) Who continues to reside in the assisted living program or nursing home as of April 1, 2012.

D. Beginning on October 1, 2011, a hospital shall:

- (1) Accept and update if appropriate, a completed MOLST form in accordance with the form's instructions; or
- (2) Complete a MOLST form for a patient during the patient's inpatient stay if the patient is to be discharged or transferred to another health care facility.

E. When initially completing a MOLST form or updating an existing MOLST form, a health care facility shall:

- (1) Offer the patient or authorized decision maker and any physician or nurse practitioner selected by the patient or authorized decision maker the opportunity to participate in completing or updating the MOLST form;
- (2) Note in the medical record when a patient or an authorized decision maker declines to participate in completing or updating the MOLST form, indicating the date and time of discussion, with whom the form was discussed, and a summary of the discussion;
- (3) Inform the patient or authorized decision maker that the MOLST form will become part of the medical record and can be accessed through the procedures used to access a medical record; and
- (4) Give the patient or authorized decision maker a copy of the completed form within 48 hours or sooner if the patient is discharged or transferred.

F. A practitioner who completes or updates a MOLST form shall do so in accordance with the form's instructions.

G. Except as otherwise provided in the Health Care Decisions Act, a practitioner shall complete, or update a MOLST form in a manner that is consistent with:

- (1) The known decisions of:
  - (a) A competent patient; or
  - (b) An authorized decision maker; and
- (2) Any known advance directive if the patient is incapable of making an informed decision.

## **.05 Resolving Conflicts between MOLST Forms.**

A. If the medical records of a patient contain more than one MOLST form, the orders contained in the most recent MOLST form shall be followed unless and until the form is updated.

B. If MOLST forms completed on different dates contain conflicting orders, a health care provider shall:

(1) To the extent feasible, discuss any conflicts with the patient or authorized decision maker; and

(2) Complete an updated MOLST form to reflect the current wishes of the patient or authorized decision maker.

C. If an updated MOLST form is completed, all older forms shall be voided in accordance with the form's instructions.

**.06 Reproduction and Alteration of the MOLST Form.**

A. A health care provider may freely copy, store electronically, and subsequently print or otherwise reproduce the form.

B. A health care provider may not alter the contents or format of the form.

**.07 Immunity.**

A health care provider that, in good faith, authorizes the provision, withholding, or withdrawing of treatment in furtherance of orders contained in a MOLST form is entitled to the immunity provided under Health-General Article, §5-609, Annotated Code of Maryland.

**END NEW**

**JOSHUA M. SHARFSTEIN, M.D.**

**Secretary of Health and Mental Hygiene**